

AMENDED IN SENATE JUNE 26, 2014

AMENDED IN ASSEMBLY MAY 23, 2014

AMENDED IN ASSEMBLY APRIL 21, 2014

AMENDED IN ASSEMBLY MARCH 28, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2411

Introduced by Assembly Member Bonta

(Principal coauthor: Senator Leno)

February 21, 2014

An act to amend Sections 1203.067 and 3008 of the Penal Code, relating to corrections, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2411, as amended, Bonta. Probation and parole.

Existing law requires the terms of probation or parole for all persons placed on formal probation or parole for an offense that requires registration as a sex offender to include, among other things, participation in, or completion of, a sex offender management program, as specified. Existing law requires that the length of the period in the program be determined by a certified sex offender management professional in consultation with the probation or parole officer and as approved by the court.

This bill would require participation in the above programs to apply without regard to when the crime or crimes for which the person is on probation or parole were committed. By increasing the penalties for existing crimes, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1203.067 of the Penal Code is amended
2 to read:

3 1203.067. (a) Notwithstanding any other law, before probation
4 may be granted to any person convicted of a felony specified in
5 Section 261, 262, 264.1, 286, 288, 288a, 288.5, or 289, who is
6 eligible for probation, the court shall do all of the following:

7 (1) Order the defendant evaluated pursuant to Section 1203.03,
8 or similar evaluation by the county probation department.

9 (2) Conduct a hearing at the time of sentencing to determine if
10 probation of the defendant would pose a threat to the victim. The
11 victim shall be notified of the hearing by the prosecuting attorney
12 and given an opportunity to address the court.

13 (3) Order any psychiatrist or psychologist appointed pursuant
14 to Section 288.1 to include a consideration of the threat to the
15 victim and the defendant's potential for positive response to
16 treatment in making his or her report to the court. Nothing in this
17 section shall be construed to require the court to order an
18 examination of the victim.

19 (b) On or after July 1, 2012, the terms of probation for persons
20 placed on formal probation for an offense that requires registration
21 pursuant to Sections 290 to 290.023, inclusive, shall include all of
22 the following:

23 (1) Persons placed on formal probation prior to July 1, 2012,
24 shall participate in an approved sex offender management program,
25 following the standards developed pursuant to Section 9003, for
26 a period of not less than one year or the remaining term of
27 probation if it is less than one year. The length of the period in the
28 program is to be determined by the certified sex offender

1 management professional in consultation with the probation officer
2 and as approved by the court. Participation in this program applies
3 to every person described without regard to when his or her crime
4 or crimes were committed.

5 (2) Persons placed on formal probation on or after July 1, 2012,
6 shall successfully complete a sex offender management program,
7 following the standards developed pursuant to Section 9003, as a
8 condition of release from probation. The length of the period in
9 the program shall be not less than one year, up to the entire period
10 of probation, as determined by the certified sex offender
11 management professional in consultation with the probation officer
12 and as approved by the court. Participation in this program applies
13 to each person without regard to when his or her crime or crimes
14 were committed.

15 (3) Waiver of any privilege against self-incrimination and
16 participation in polygraph examinations, which shall be part of the
17 sex offender management program.

18 (4) Waiver of any psychotherapist-patient privilege to enable
19 communication between the sex offender management professional
20 and supervising probation officer, pursuant to Section 290.09.

21 (c) Any defendant ordered to be placed in an approved sex
22 offender management program pursuant to subdivision (b) shall
23 be responsible for paying the expense of his or her participation
24 in the program as determined by the court. The court shall take
25 into consideration the ability of the defendant to pay, and no
26 defendant shall be denied probation because of his or her inability
27 to pay.

28 SEC. 2. Section 3008 of the Penal Code is amended to read:

29 3008. (a) The Department of Corrections and Rehabilitation
30 shall ensure that all parolees under active supervision who are
31 deemed to pose a high risk to the public of committing sex crimes,
32 as determined by the State-Authorized Risk Assessment Tool for
33 Sex Offenders (SARATSO), as set forth in Sections 290.04 to
34 290.06, inclusive, are placed on intensive and specialized parole
35 supervision and are required to report frequently to designated
36 parole officers. The department may place any other parolee
37 convicted of an offense that requires him or her to register as a sex
38 offender pursuant to Section 290 who is on active supervision on
39 intensive and specialized supervision and require him or her to
40 report frequently to designated parole officers.

1 (b) The department shall develop and, at the discretion of the
2 secretary, and subject to an appropriation of the necessary funds,
3 may implement a plan for the implementation of relapse prevention
4 treatment programs, and the provision of other services deemed
5 necessary by the department, in conjunction with intensive and
6 specialized parole supervision, to reduce the recidivism of sex
7 offenders.

8 (c) The department shall develop control and containment
9 programming for sex offenders who have been deemed to pose a
10 high risk to the public of committing a sex crime, as determined
11 by the SARATSO, and shall require participation in appropriate
12 programming as a condition of parole.

13 (d) On or after July 1, 2012, the parole conditions of a person
14 released on parole for an offense that requires registration pursuant
15 to Sections 290 to 290.023, inclusive, shall include all of the
16 following:

17 (1) Persons placed on parole prior to July 1, 2012, shall
18 participate in an approved sex offender management program,
19 following the standards developed pursuant to Section 9003, for
20 a period of not less than one year or the remaining term of parole
21 if it is less than one year. The length of the period in the program
22 is to be determined by the certified sex offender management
23 professional in consultation with the parole officer and as approved
24 by the court. Participation in this program applies to each person
25 without regard to when his or her crime or crimes were committed.

26 (2) Persons placed on parole on or after July 1, 2012, shall
27 successfully complete a sex offender management program,
28 following the standards developed pursuant to Section 9003, as a
29 condition of parole. The length of the period in the program shall
30 be not less than one year, up to the entire period of parole, as
31 determined by the certified sex offender management professional
32 in consultation with the parole officer and as approved by the court.
33 Participation in this program applies to every person described
34 without regard to when his or her crime or crimes were committed.

35 (3) Waiver of any privilege against self-incrimination and
36 participation in polygraph examinations, which shall be part of the
37 sex offender management program.

38 (4) Waiver of any psychotherapist-patient privilege to enable
39 communication between the sex offender management professional
40 and supervising parole officer, pursuant to Section 290.09.

1 (e) Any defendant ordered to be placed in an approved sex
2 offender management treatment program pursuant to subdivision
3 (d) shall be responsible for paying the expense of his or her
4 participation in the program. The department shall take into
5 consideration the ability of the defendant to pay, and no defendant
6 shall be denied discharge onto parole because of his or her inability
7 to pay.

8 SEC. 3. No reimbursement is required by this act pursuant to
9 Section 6 of Article XIII B of the California Constitution because
10 the only costs that may be incurred by a local agency or school
11 district will be incurred because this act creates a new crime or
12 infraction, eliminates a crime or infraction, or changes the penalty
13 for a crime or infraction, within the meaning of Section 17556 of
14 the Government Code, or changes the definition of a crime within
15 the meaning of Section 6 of Article XIII B of the California
16 Constitution.

17 SEC. 4. *This act is an urgency statute necessary for the*
18 *immediate preservation of the public peace, health, or safety within*
19 *the meaning of Article IV of the Constitution and shall go into*
20 *immediate effect. The facts constituting the necessity are:*

21 *In order to promote public safety and the effective use of the*
22 *containment model for managing sex offenders in the community*
23 *at the earliest possible time, it is necessary that this act take effect*
24 *immediately.*